In the
Supreme Court of the United States

OCTOBER TERM, 1958

No. 495

SOMERVILLE MILLING COMPANY, ET AL.,
DEFENDANTS, APPELLANTS,

v.

WORCESTER NORTH SAVINGS INSTITUTION,
PLAINTIFF, APPELLEE.

APPELLANTS' MOTION TO STRIKE APPELLEE'S MOTION TO DISMISS (a)

Now come the Defendants, Appellants in the above entitled action and state that the Appellee has included in its motion to dismiss under (a) thereof, certain contentions of fact that do not appear to be sustained by the record in this case. That the excerpt of the law quoted in its said motion on page 4 thereof at the top of the page appears to be a correct quotation. That the decision in this case may well have been made by the members of the Court on May 29, 1958 but the said opinion does not appear to have been filed at the said time but rather was filed about June 6, 1958. That if the said Court had included in its record for transmission to this Court a copy

of the docket as requested, it would appear that the said filing did not occur on May 29, 1958.

Wherefore, your Defendant, Appellants respectfully move that the said paragraph (a) of the Appellees Motion to Dismiss be stricken as uncorroborated by the record. As to the other points raised by the Motion to Dismiss they appear to be adequately answered by the appeal itself and record filed and jurisdictional statement contents.

By their attorney,

(s) ANGUS M. MACNEIL
547 Somerville Avenue,
Somerville, Mass.

Copy mailed to Burns, Calderwood and Bryant, Esqs. counsel for the Plaintiff, Appellee this sixth day of January 1959.

(s) ANGUS M. MACNEIL